

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

03 APR -2 PM 4:43

CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

UNITED STATES OF AMERICA,

Plaintiff,

v.

EMILIO MARRERO GARCIA,

Defendant.

Crim. No. 98-199 (SEC)

JESSICA RODRIGUEZ LUGO,

Third Party Claimant.

**UNITED STATES' MOTION FOR AMENDED
FINAL ORDER OF FORFEITURE**

TO THE HONORABLE COURT:

NOW COMES the United States, through the undersigned attorneys and respectfully states and prays as follows:

1. On July 9, 2002, this Honorable Court, pursuant to a Stipulation entered into between third party claimant Jessica Rodríguez Lugo and the United States, and pursuant to the respective Plea and Forfeiture Agreements entered into between the United States and defendants Emilio Marrero García and Zoraida Rivera Rivera, entered a Final Order of Forfeiture against several properties, including the following:

B) ONE RURAL LOT #13,837, LOCATED AT TIERRAS NUEVAS WARD, MANATI, PUERTO RICO, MORE FULLY DESCRIBED AT PROPERTY REGISTRY OF PUERTO RICO AS FOLLOWS:

RUSTICA: Solar marcado con el #6 del plano de inscripción y que radica en el Barrio Tierras Nuevas Salientes del término municipal de Manatí, Puerto Rico, sector Boquillas, con un área superficial de 1,000 metros cuadrados,

138
re

colindando por el Norte, distancia 50.00 metros con solar 5; por el Sur, en 50.00 metros con solar 7; por el Este, en 20.00 metros con solar 8; y por el Oeste, en 20.00 metros con área dedicada a uso público.

Se segrega de la finca #13,028, inscrita al folio 90 del tomo 343 de Manatí, a favor de Jaime Sánchez Mejías y su esposa Rita Vidal Alvarez.

This property is inscribed in page 160, volume 374 at the Property Registry of Manatí; property no. 13,837.

This property is encumbered by the following liens:

A mortgage in favor of Doral Mortgage Corporation, in the amount of \$55,000.00.

2. It has come to the attention of the United States that the description of the property intended to be forfeited was erroneous. A quick review of the record will show that the property to be actually forfeited is described differently.

3. In Count Twelve of the Second Superseding Indictment, the United States named the following property for potential forfeiture:

ONE RURAL LOT #11,707, LOCATED AT TIERRAS NUEVAS SALIENTES WARD, MANATI PUERTO RICO, MORE FULLY DECRIBED AT THE PROPERTY REGSITRY OF PUERTO RICO AS FOLLOWS:

RUSTICA: Solar marcado con el #6 del plano de inscripción y que radica en el Barrio Tierras Nuevas Salientes del término municipal de Manatí, Puerto Rico, sector Boquillas, con un área superficial de 1,000 metros cuadrados, colindando por el Norte, distancia 50.00 metros con solar 5; por el Sur, en 50.00 metros con solar 7; por el Este, en 20.00 metros con solar 8; y por el Oeste, en 20.00 metros con área dedicada a uso público.

Se segrega de la finca #13,028, inscrita al folio 90 del tomo 343 de Manatí, a favor de Jaime Sánchez Mejías y su esposa Rita Vidal Alvarez.

This property is inscribed in page 284, volume 286 at the Property Registry of Manatí, property no. 11,707.

This property is encumbered by the following liens:

A Bearer Note in the amount of \$200,000.00.

4. Now, as the Honorable Court may have noticed, this description names lot 11,707 as the property intended to be forfeited. However, the legal description itself did not correspond to that lot, but rather it corresponds to lot 13,837. See Final Order of Forfeiture where the property that was listed as property B is property no. 13,837. That property was not listed in the Second Superseding Indictment, but property no. 11,707 was. Therefore, it can safely be determined that property 11,707 is the one that the United States intended to forfeit and that the defendants agreed to forfeit.

5. Indeed, property 11,707 is a lot where a business known as Cafetería Mar Chiquita is located. As appears from Zoraida Rivera Rivera's Plea and Forfeiture Agreement, this property is to be forfeited to the United States.

6. A recent title study done in the process of inscribing the property to the United States, revealed this inconsistency.

7. The correct legal description for property 11,707, as appears in the attached title study, is as follows:

B) ONE RURAL LOT #11,707, LOCATED AT TIERRAS NUEVAS WARD, MANATI, PUERTO RICO, MORE FULLY DESCRIBED AT PROPERTY REGISTRY OF PUERTO RICO AS FOLLOWS:

RUSTICA: Predio de terreno en el Barrio Tierras Nuevas Salientes de Manatí, Puerto Rico, con una cabida superficial de 0.923 cuerdas, equivalentes a 3,628.43 metros cuadrados, en lindes por el Norte, en 69.67 metros, con remanente de la finca, antes, hoy, Manuel Matías; por el Oeste, en 64.91 metros, con el remanente de la finca principal; por el Sur, con la finca denominada "A" en el plano

para futuro ensanche de la carretera 685 en dos alineaciones de 42.86 metros y 11.70 metros, respectivamente y por el Este, con la misma faja denominada "A" para futuro ensanche de la carretera #658 en tres alineaciones de 11.60 metros; 35.21 metros y 6.50 metros respectivamente.

ENCLAVA: Una casa

ORIGEN: Se segrega de la finca #1782 inscrita al folio 232 del tomo 24 de Manatí.

PROPIETARIO REGISTRAL: Zoraida Rivera Rivera, mayor de edad, soltera, quien adquirió por compra a los esposos Daniel Castro Rivera y Ramona Natal Maldonado, por precio de \$135,000.00. Según escritura #32, otorgada en San Juan, el 16 de diciembre de 1994, ante Carmen L. Rivera Mercado, inscrita al folio 284 de Manatí inscripción 7ma y Ultima.

This property is inscribed in page 280, volume 286 at the Property Registry of Manati; property no. 11,707.

This property is encumbered by the following liens:

A mortgage note in favor of the Bearer, in the amount of \$200,000.00.

8. The Honorable Court can well see that the property is registered under co-defendant's Zoraida Rivera's name (unlike the one in the Final Order of Forfeiture) and that the \$200,000.00 bearer note is also included. It appears that when the property was listed in the Second Superseding Indictment, the descriptions were mixed.

9. The attached memo from the Internal Revenue Service explains that this bearer note was in the possession of defendant Emilio Marrero García who turned it over to the United States. Thus, any concerns that the Court may have about potential third party claims are duly addressed by this memorandum and the fact that the attached title study reflects that there are no other potential third party claimants. Moreover, as stated before, Zoraida Rivera agreed to the forfeiture of this property in her Plea and

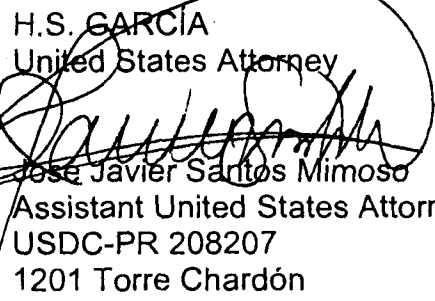
Forfeiture Agreement.

10. Consequently, the United States respectfully requests that the Final Order of Forfeiture be amended to include the correct property registry description of property 11,707. A proposed order is attached.

WHEREFORE the United States respectfully prays to the Honorable Court that the present motion be Granted.

I HEREBY CERTIFY that in this date a true copy of the foregoing has been sent by mail to Francisco López Romo, Esq., 7600 Red Road, Suite 200, South Miami, FL 33143.

Respectfully Submitted in San Juan, Puerto Rico, this 2nd day of April 2003.

H.S. GARCIA
United States Attorney

Jose Javier Santos Mimoso
Assistant United States Attorney
USDC-PR 208207
1201 Torre Chardón
350 Carlos Chardón St.
Tel. 766-5656 Fax. 766-6219

HATO REY TITLE INSURANCE AGENCY, INC.

BANKTRUST PLAZA, OFFICE 809
255 PONCE DE LEON AVENUE
HATO REY, PUERTO RICO 00917

TELEPHONE: (787) 274-1200
FAX: (787) 753-5081
FAX: (787) 759-8055

CASO : LCDO. ISABEL FLORES

FINCA: # 11707, inscrita al folio 280 del tomo 286 de Manatí, inscripción . (Sección de Manatí).

DESCRIPCION :

RUSTICA: Predio de terreno en el Barrio Tierras Nuevas Salientes de Manatí, Puerto Rico, con una cabida superficial de 0.923 cuerdas, equivalentes a 3,628.43 metros cuadrados, en lindes por el NORTE, en 69.67 metros, con remanente de la finca, antes, hoy Manuel Matías; por el OESTE, en 64.91 metros, con el remanente de la finca principal; por el SUR, con la finca denominada "A" en el plano para futuro ensanche de la carretera 685 en dos alineaciones de 42.86 metros y 11.70 metros, respectivamente y por el ESTE, con la misma faja denominada "A" para futuro ensanche de la carretera #658 en tres alineaciones de 11.60 metros; 35.21 metros y 6.50 metros respectivamente.

ENCLAVA: Una casa.

ORIGEN: Se segrega de la finca # 1782 inscrita al folio 232 del tomo 24 de Manatí.

PROPIETARIO REGISTRAL: ZORAIDA RIVERA RIVERA, mayor de edad, soltera, quien adquirió por compra a los esposos Daniel Castro Rivera y Ramona Natal Maldonado, por precio de \$135,000.00. Según escritura # 32, otorgada en San Juan, el 16 de diciembre de 1994, ante Carmen L. Rivera Mercado, inscrita al folio 284 del tomo 286 de Manatí inscripción 7ma y Ultima.

CARGAS Y GRAVAMENES

Por su Procedencia:

LIBRE.

Por si:

1- HIPOTECA : Por \$200,000.00, con intereses al 12% anual, en garantía de un pagaré a favor de Portador, que vence el 16 de diciembre de 1999. Según escritura #33, otorgada en San Juan el 16 de diciembre de 1994, ante Carmen L. Rivera Mercado, inscrita al folio 284 del tomo 286 de Manatí, inscripción 7ma y ultima.

BITÁCORA:

ASIENTO 159 DIARIO 149, de fecha 17 de abril de 1998: Presentada y Pendiente de Despacho: Aviso de Confiscación dictado en la Corte de Distrito de los Estados Unidos de América para el Distrito de Puerto Rico, Caso Civil #98-1386 DRD por Estados Unidos de América, vs. (varias fincas) del 13 de abril de 1998.

OBSERVACION : Lo anterior no comprende una calificación de este(os) documento(s) ni presupone que el mismo(los mismos) será(n) inscrito(s).

REVISADOS : Embargos por Contribuciones, Embargos Federales, Sentencias y Bitácora hasta el Asiento 114 del Diario 266.

San Juan Puerto Rico, a 19 de febrero de 2003.

JGTS/msf

Cotejado por: C

11707_MAN_E03

2/22/03

Post-It™ brand fax transmittal memo 7671 # of pages = 1

To: <i>Angel Arango</i>	From: <i>Leda Isabel Flores</i>
Co: <i>11707</i>	Ca:
Dept:	Phone # <i>722-2576</i>
Fax # <i>759-4696</i>	Fax #

"NUESTRA RESPONSABILIDAD POR ERRORES O OMISIONES COMETIDAS EN ESTE ESTUDIO DE TITULO YA SEAN POR NEGLIGENCIA NUESTRA O DEL REGISTRO DE LA PROPIEDAD, ESTA LIMITADA A LA CANTIDAD PAGADA POR EL ESTUDIO. PARA MAS PROTECCION RECOMENDAMOS QUE ADQUIERA UN SEGURO DE TITULO."



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CRIMINAL INVESTIGATION

March 14, 2003

MEMORANDUM FOR JOSÉ JAVIER SANTOS MIMOSO
ASSITANT UNITED STATES ATTORNEY
UNITED STATES ATTORNEYS OFFICE
DISTRICT OF PUERTO RICO

FROM: Martha T. Rudner
Asset Forfeiture Coordinator
Miami Field Office
Criminal Investigation

SUBJECT: EMILIO MARRERO GARCIA PROPERTY DESCRIPTION
PROPOSED AMENDMENT TO FINAL ORDER OF
FORFEITURE

This memorandum is to inform you that the property described in the Final Forfeiture Order dated July 9, 2002, as 1. B) concerning the above subject matter has been described incorrectly as to the legal description itself and as to the existence of a lien. The actual property in reference is located in Manatí, described as Cafeteria Mar Chiquita, and was registered under the name of Zoraida Rivera-Rivera, who was a co-defendant in this investigation. It was recently brought to my attention from the Special Agent assigned that the property as described in the Final Order of Forfeiture reflected a mortgage in favor of Doral Mortgage in the amount of \$55,000. After reviewing the case files, it was learned that the property with the mortgage in favor of Doral is actually Rivera's residence, not Cafeteria Mar Chiquita.

The Property Registry Records do reveal, however, that a \$200,000 lien in the form of a bearer's note attaches the Manati property. The investigation into this lien determined that Emilio Marrero Garcia was in possession of this bearer's note. Pursuant to his plea agreement, Emilio Marrero Garcia forfeited all right, title and interest to the property in question. In addition, in the Government's Version of the Facts, which was made part of defendant Marrero Garcia's plea, he acknowledged receipt of this bearer note from co-defendant Zoraida Rivera-Rivera and affirmed that the funds utilized in the above transaction with her were from proceeds of a specified unlawful activity. Likewise, Zoraida Rivera-Rivera relinquished all of her right, title and interest in this property in her plea agreement as well. Therefore, this \$200,000

JOSÉ JAVIER SANTOS MIMOSO
ASSITANT UNITED STATES ATTORNEY
UNITED STATES ATTORNEYS OFFICE
DISTRICT OF PUERTO RICO

existing lien should be deemed cancelled and the property should be considered free of liens.

Based on the latest title study on this property, the correct description for the property to be forfeited is as follows:

Finca #: 11,707, inscrita al folio 280 del tomo 286 de Manatí, inscripción (Sección de Manatí)

Rústica: Predio de terreno en el Barrio Tierras Nuevas Salientes de Manatí, Puerto Rico, con una cabida superficial de 0.923 cuerdas, equivalentes a 3,628.43 metros cuadrados, en lindes por el NORTE, en 69.67 metros, con remanente de la finca, antes, hoy Manuel Matías; por el OESTE, en 64.91 metros, con el remanente de la finca principal; por el SUR, con la finca denominada "A" en el plano para futuro ensanche de la carretera 685 en dos alineaciones de 42.86 metros y 11.70, respectivamente y por el ESTE, con la misma faja denominada "A" para futuro ensanche de la carretera #658 en tres alineaciones de 11.60 metros ; 35.21 metros y 6.50 metros respectivamente.

An amendment needs to be made to the Final Order of Forfeiture as to the legal description of this property and to include the fact that it is free and clear of liens. Should you have any questions or need additional information, do not hesitate to contact the Special Agent assigned, Angel Arroyo, at (787) 759-4678 or me at (954) 423-7660.

cc: SA Angel Arroyo
STG Specialist Katuska Arroyo